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DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-837]

Glycine from Thailand: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that glycine from Thailand is being, or is likely to be, sold in the United States at less than fair value (LTFV). In addition, Commerce determines that critical circumstances exist with respect to certain imports of the subject merchandise. The period of investigation (POI) is January 1, 2017 through December 31, 2017. The final estimated weighted-average dumping margins are listed below in the “Final Determination” section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Brian Smith or Jesus Saenz, AD/CVD, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1766 or (202) 482-8184, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioners in this investigation are GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc. (collectively, the petitioners). The mandatory respondent in this investigation is Newtrend Food Ingredient (Thailand) Co., Ltd. (Newtrend Thailand).

The events that occurred since Commerce published the *Preliminary Determination*¹ on October 31, 2018 and postponed the final determination until March 15, 2019 are discussed in the Issues and Decision Memorandum.²

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.³ Commerce revised the deadline for the final determination in this investigation to April 24, 2019.

On March 19, 2019, the petitioners submitted new factual information (NFI) on the record of this investigation, which included the notice of U.S. Customs and Border Protection's (CBP's) commencement of a formal investigation and imposition of interim measures (*CBP Interim Measures*) under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015 (also referred to as the Enforce and Protect Act or EAPA).⁴ Commerce accepted the NFI and provided interested parties with an opportunity to comment. On April 24, 2019, Commerce postponed until further notice the issuance of the final determination in this investigation, in order to further investigate this matter.⁵ We subsequently issued to Newtrend Thailand additional requests for sales and cost information relevant to this matter. Newtrend

¹ See *Glycine from Thailand Preliminary Determination of Sales at Not Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination*, 83 FR 54717 (October 31, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Less-Than-Fair-Value Investigation of Glycine from Thailand," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁴ See Petitioners' Letter, "Glycine from Thailand: Request to Accept U.S. Customs and Border Protection's Interim Measures," dated March 19, 2019.

⁵ See Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Jeffrey I. Kessler, Assistant Secretary for Enforcement and Compliance, "Postponement of the Final Determinations in the Less-Than-Fair Value and Countervailing Duty Investigations of Glycine from Thailand," dated April 24, 2019.

Thailand timely responded to these requests for information, and Commerce subsequently conducted verification of the additional information submitted.

We invited interested parties to comment on the *Preliminary Determination* and on events that occurred since the publication of that determination. A detailed summary of the events that occurred in this investigation since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, can be found in the Issues and Decision Memorandum.

Scope of the Investigation

The product covered by this investigation is glycine from Thailand. For a full description of the scope of this investigation, *see* the “Scope of the Investigation” in Appendix I of this notice.

Scope Comments

We invited parties to comment on Commerce’s Preliminary Scope Decision Memorandum.⁶ Commerce reviewed the briefs submitted by interested parties, considered the arguments therein, and made no changes to the scope of the investigation. For further discussion, *see* Commerce’s Scope Comments Final Decision Memorandum.⁷

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and

⁶ *See* Memorandum, “Glycine from India, Japan, the People’s Republic of China and Thailand: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated August 27, 2018 (Preliminary Scope Decision Memorandum).

⁷ *See* Memorandum, “Glycine from India, Japan, the People’s Republic of China and Thailand: Scope Comments Decision Memorandum for the Final Determinations,” dated April 24, 2019 (Scope Comments Final Decision Memorandum).

Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B-8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), from November to December 2018 and during June 2019, Commerce conducted verifications of Newtrend Thailand's sales and cost information. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Newtrend Thailand.⁸

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties and our verification findings, we find that facts available with an adverse inference is warranted for Newtrend Thailand in the final determination in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. For further discussion, *see* "Use of Adverse Facts Available" section below and the Issues and Decision Memorandum.

⁸ For a discussion of our verification findings, *see* "U.S. Verification of the Sales Response of Newtrend Food Ingredient (Thailand) Co., Ltd. in the Antidumping Investigation of Glycine from Thailand," dated March 14, 2019; "Home Market Verification of the Sales Response of Newtrend Food Ingredient (Thailand) Co., Ltd. in the Antidumping Investigation of Glycine from Thailand" and "Verification of Cost Response of Newtrend Food Ingredient (Thailand) Co., Ltd. in the Antidumping Duty Investigation of Glycine from Thailand" both dated March 15, 2019; and "Verification of the Questionnaire Response of Newtrend Food Ingredient (Thailand) Co., Ltd. in the Antidumping Investigation of Glycine from Thailand with Respect to the Transshipment Allegation" and "2nd Verification of Cost Response of Newtrend Food Ingredient (Thailand) Co., Ltd. in the Antidumping Duty Investigation of Glycine from Thailand," both dated June 20, 2019.

Use of Adverse Facts Available

Newtrend Thailand, the sole mandatory respondent, failed to provide critical information in determining its cost of production of glycine during the POI, rendering its reported costs unreliable and unusable for purposes of calculating an accurate estimated weighted-average dumping margin. Therefore, pursuant to section 776(a) and (b) of the Act, we find that the application of facts available with an adverse inference is warranted with respect to Newtrend Thailand in the final determination. In applying total adverse facts available (AFA), Commerce has determined that Newtrend Thailand's estimated weighted-average dumping margin is 227.17 percent, which is the highest dumping margin alleged in the Petition, as supplemented on April 9, 2018, and will apply this margin to its exports of glycine to the United States.⁹ For further discussion, *see* the Issues and Decision Memorandum at Comment 1.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that Commerce estimate the weighted-average dumping margin for all other producers or exporters equal to the weighted average of the estimated weighted-average dumping margins of those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely on facts available pursuant to section 776 of the Act. Section 735(c)(5)(B) of the Act provides that when, as here, each of the estimated weighted-average dumping margins established for all exporters or producers individually examined are zero, *de minimis*, or based entirely on facts available, Commerce may use any reasonable method to establish the rate for all other exporters or producers. In such a situation, Commerce's practice has been to determine the estimated weighted-average dumping

⁹ *See* Petitioners' Letter, "Glycine from Thailand: Petition for the Imposition of Antidumping Duties," dated March 28, 2018 (Petition); and Petitioners' Letter, "Glycine from Thailand: Responses to Second Supplemental Questionnaire," dated April 9, 2018 (Thailand AD Second Petition Supplement), at Exhibit TA-2S5.

margin for all other producers or exporters as the simple average of the dumping margins alleged in the Petition,¹⁰ which we have done for this final determination.¹¹

Final Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206, we preliminarily determined that critical circumstances did not exist with respect to imports of glycine because that subject merchandise was not being, or was not likely to be, sold in the United States at LTFV.¹² However, in this final determination, in accordance with section 735(a)(3) and 19 CFR 351.206, we find that critical circumstances exist with respect to subject merchandise produced or exported by Newtrend Thailand, but do not exist with respect to all other producers or exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Issues and Decision Memorandum.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or Producer	Estimated Weighted-Average Dumping Margin (percent)
Newtrend Food Ingredient (Thailand) Co., Ltd.	227.17
All Others	201.59

¹⁰ *See, e.g., Silicon Metal From Australia: Affirmative Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part*, 83 FR 9839, 9840 (March 8, 2018); *Certain Uncoated Paper from Australia: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, In Part*, 81 FR 3108 (January 20, 2016); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Turkey*, 73 FR 5508 (January 30, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Turkey*, 73 FR 19814 (April 11, 2008).

¹¹ *See* Petition; Thailand AD Second Petition Supplement, at Exhibit TA-2S5.

¹² *See Preliminary Determination*, 83 FR at 54717, and accompanying PDM at 16.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, in this investigation, Commerce applied AFA to the sole respondent, Newtrend Thailand, in accordance with section 776 of the Act, the applied AFA rate is based solely on the Petition, and the all-others rate is a simple average of the Petition rates.¹³ Therefore, there are no margin calculations to disclose.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) and (C) of the Act, for this final determination, we will direct CBP to suspend liquidation of all entries of glycine from Thailand, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication in the *Federal Register* of this notice. Section 735(c)(4)(C) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which the suspension of liquidation was first ordered.

For entries made by Newtrend Thailand, in accordance with section 735(c)(4)(C) of the Act, because we find that critical circumstances exist, we will instruct CBP to suspend liquidation of all appropriate entries of glycine from Thailand which were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of

¹³ See *Glycine from India, Japan, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 17995 (April 17, 2018), and accompanying Antidumping Duty Investigation Initiation Checklist: Glycine from Thailand, at 13.

publication of this notice. For entries made by companies covered by the all-others rate, because we find that critical circumstances do not exist, we will not give CBP such instructions.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin as follows: (1) the cash deposit rate for Newtrend Thailand will be equal to the (estimated) weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific (estimated) weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers or exporters will be equal to the all-others (estimated) weighted-average dumping margin determined in this final determination.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. In the concurrent CVD investigation of glycine from Thailand, however, Commerce did not make an affirmative determination for countervailable export subsidies. Therefore, Commerce has not offset the estimated weighted-average dumping margins by countervailable export subsidies.

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the

likelihood of sales) for importation of glycine from Thailand no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Suspension of Liquidation” section.

Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: July 29, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is glycine at any purity level or grade. This includes glycine of all purity levels, which covers all forms of crude or technical glycine including, but not limited to, sodium glycinate, glycine slurry and any other forms of amino acetic acid or glycine. Subject merchandise also includes glycine and precursors of dried crystalline glycine that are processed in a third country, including, but not limited to, refining or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope glycine or precursors of dried crystalline glycine. Glycine has the Chemical Abstracts Service (CAS) registry number of 56-40-6. Glycine and glycine slurry are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2922.49.43.00. Sodium glycinate is classified in the HTSUS under 2922.49.80.00. While the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Margin Calculations
- V. Adjustment for Countervailable Export Subsidies
- VI. Affirmative Determination of Critical Circumstances
- VII. Discussion of the Issues
 - Comment 1 Application of Adverse Facts Available (AFA)
 - Comment 2 *CBP Interim Measures*
- VIII. Recommendation

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